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move us to fight and war against any man with outward weapons, neither for the kingdom of Christ, nor for the kingdom of this world."

To many this sounds impractical, but the Friends believe it is worth trying. They remember how five Friends rode unarmed into the camp of the Indians in 1675, and endeavored to settle by arbitration the differences between the Indians and whites. Though they failed then, and King Phillip's War broke out five days later—the bloodiest of the Indian Wars—their courage did not fail and seven years later they established Pennsylvania where Indians and whites were equal before the courts. Though court decisions were often grossly unjust, both sides kept the peace as long as even a minority of Friends ruled. Success of this sort led to the selection of John Archdale, a Quaker, in 1698, to rescue the Carolinas from anarchy and trouble with the Indians. He succeeded where others had failed.

For centuries force was thought to be essential in dealing with the insane, yet during the Napoleonic Wars, the Tukes, Quakers, found out and taught the world how to run an insane asylum on the principle of appealing to the "inner light."

At nearly the same time Elizabeth Fry brought about a similar reformation in prison administration.

Countless people tell us that the "statement of peace terms by the allies" six months ago, by its careful enumeration of wrongs, only served to unite Germans to the support of the government in prosecuting the war as nothing previous had done. We hear hate preached from the pulpits, shouted from platforms, and hailed from recruiting stations. There is at least a doubt that either side will be able to "dictate terms of peace on the battle field," and to attempt that method means sending hundreds of thousands of men to death. Atrocities can be proved, but reciting them will not help end the war, any more than dwelling on errors and sins will settle domestic quarrels.

A wealthy, prominent, and influential German told a friend of mine who was working for the Belgian Relief that he "would give everything he had to end the war," but he knew that Germany could not be crushed, so he was doing his part. Every German my friend met, and they were possibly thousands, agreed with that wealthy German.

If the possibility of ending the war were freely discussed everywhere the millions in every nation who are sick of the war would soon make their voices heard.

Can we afford to cultivate hate, distrust, and malice when after all the Germans are men? When every fanning of the flame of hate serves to postpone the conference which in any event will end this war? When we know that the longer the war continues the more nearly academic becomes the talk of reparation, since Germany is already practically bankrupt?

Loyalty seems to demand that we endeavor to keep our country sane. We have internal problems. A government official last week, referring to drastic police measures against a few anarchists said "this ends anarchism in this country." We must teach that official history, so that he will learn that over-severe methods only fertilize the ground for anarchism.

War brings juvenile crime at home, unprintable conditions in camps, and a host of other evils. We must

endeavor to keep our consciences so clear of the military machine as to be intelligent assets to America, for after all, America is the best country to live in, and we must do our part to make it the best possible America.

THE ACHIEVEMENT OF INTERNATIONAL JUSTICE

By JAMES BROWN SCOTT

IF NATIONS meet upon terms of equality, and base their relations upon principles of justice, and if in good faith they keep the pledged word, we may expect peace; but if they do not do so, out of a mistaken regard to their own interests, anarchy and destruction must prevail. As Mr. Root said, on May 11, 1908, on the laying of the cornerstone of the International Bureau of American Republics:

"There are no international controversies so serious that they cannot be settled peaceably if both parties really desire peaceable settlement, while there are few causes of dispute so trivial that they cannot be made the occasion of war, if either party really desires war. The matters in dispute between nations are nothing; the spirit which deals with them is everything."

Feeling, as I do, keenly upon these matters, I desire to offer some observations upon the methods whereby justice may enter into the practice of nations; for, if the future is to be different from the past (and who does not hope and pray that it will be?) we must think more of justice and the ways of peace and less of force and the ways of war.

I consider three things as indispensable in any consideration of this subject, and, without an agreement upon them, it is in my opinion a waste of time to discuss international questions and to plan for a happier future. The first is that we regard all nations as equal; the second is that the relations of nations be based upon principles of justice; and the third, that the promises of nations, whether they be embodied in formal documents, such as treaties and conventions, or preserved in informal agreements, be scrupulously kept.

Let me touch briefly on each of these points, and illustrate by concrete examples the sense in which I would have them understood. First, as to equality. We cannot say, and if we do we cannot expect to be believed, that nations are equal in all respects, for we know that they are not. But I do not speak of physical, mental, or moral equality. I have in mind equality before the law, and in this sense I believe, and therefore state, that nations have equal duties and equal rights in and under the law. Indeed, I am unable to conceive of a system of justice which does not recognize legal equality, and I cannot understand how relations not founded upon equality before and under and in the law can be permanent, and it is the permanent things we wish and must have. The truth that inequality finds no place in justice was never better stated than by a great and high-minded, generous, and yet just French statesman at the First Hague Conference. In speaking of the supposed inequality of the powers Mr. Bourgeois said: "In the weighing of rights and ideas disparity ceases, and the rights of the smallest and the weakest powers count as much in the scales as those of the mightiest." I would like to say that it is only from the smaller states that

we can hope justice to enter into the relations of nations, to permeate the nations, and to prevail in their practice, because the larger countries have the sword with which to enforce their views, however unjust they may be, whereas the weaker nations, which are indeed the more numerous, have only justice for a defense and a shield.

We do not need to go beyond the confines of the United States to seek an illustration of the arrogance of the larger states and of their belief that they are entitled to greater rights because of their bigness. I beg to quote three instances from the debates of the Philadelphia Convention as reported by James Madison, affectionately regarded as the Father of the Constitution, and later a President of the United States, whose more perfect union he helped to found.

The first instance happened before the opening of the convention, and is thus described by Mr. Madison in his invaluable notes of the proceedings:

"Previous to the arrival of a majority of the states, the rule by which they ought to vote in the convention had been made a subject of conversation among the members present. It was pressed by Governor Morris and favored by Robert Morris and others from Pennsylvania, that the large states should unite in firmly refusing to the small states an equal vote as unreasonable, and as enabling the small states to negative every good system of government, which must, in the nature of things, be founded on a violation of that equality. The members from Virginia, conceiving that such an attempt might beget fatal altercations between the large and small states, and that it would be easier to prevail on the latter, in the course of the deliberations, to give up their equality for the sake of an effective government, than on taking the field of discussion to disarm themselves of the right, and thereby throw themselves on the mercy of the larger states, discountenanced and stifled the project."

Therefore the states, large and small, were given an equality of voice in the rules for the conduct of business. The delegates of the larger states, however, acting apparently upon Madison's advice, endeavored during the course of the session to persuade or to force the small states to yield to the larger a greater influence in the more perfect union than that which was to be possessed by the smaller States, with the result that the convention well nigh broke up within the first month of its meeting. Again, to quote Madison's report of a passage at arms between himself, representing the large State of Virginia, and John Dickinson, representing the small State of Delaware:

"You see [said the latter] the consequence of pushing things too far. Some of the members from the small states wish for two branches in the general legislature, and are friends to a good National Government; but we would sooner submit to a foreign power than submit to be deprived of an equality of suffrage in both branches of the legislature, and thereby be thrown under the domination of the large states."

The result was a compromise, by which the large and the small states respectively renounced some of their pretensions, without, however, affecting the question of equality.

The third incident happened after the Constitution had been drafted, and but two days before the adjournment of the convention. The chief actors were Governor Morris, who had proposed that the small states be shown their place at the very beginning, and James Madison, who felt that they could be forced to submit to their betters during the course of the convention. The matter under consideration was the manner of amending the Constitution, and the incident shows why it is that, while the Constitution can be amended, it was provided

that no amendment of the Constitution should ever affect the equality of the states in the Senate, in which each state is represented as such and in which each has two votes. I now quote the incident without further comment:

Mr. Gov'r Morris moved to annex a further proviso—"that no state, without its consent, shall be deprived of its equal suffrage in the Senate."

"This motion being dictated by the circulating murmurs of the small states, was agreed to without debate, no one opposing it, or on the question saying no."

It is not necessary, at this time and in this place, to dwell upon the need of a rule of law based upon justice to determine the relations of nations and to guide their conduct, because the great war of 1914 is still raging, and convinces the most plebeian, bourgeois, and dull-witted among us that, as Hamlet would say, something is rotten in the state of Denmark; and because the American Institute of International Law has confessed its faith in justice as the basis of law, and has endeavored to state, and has actually stated, within the compass of six articles, the fundamental principles of justice obtaining in civilized nations, and recognized as capable of obtaining between and among nations, in the Declaration of Rights and Duties adopted by the Institute of International Law at its first session at Washington, January 6, 1916. Although you are familiar with the Declaration, and with the articles themselves, and the sense in which they are to be understood, as it is the sense in which they have been applied by courts of justice in construing and deciding international questions, let me repeat them for purposes of clearness, as they are material to my argument, and let me indulge in a word of comment. Omitting the preamble,* which, however, is very important, as it lays the foundation upon which the rights and duties of nations are based, the articles are:

"I. Every nation has the right to exist, and to protect and to conserve its existence; but this right neither implies the right nor justifies the act of the state to protect itself or to conserve its existence by the commission of unlawful acts against innocent and unoffending states.

"II. Every nation has the right to independence in the sense that it has a right to the pursuit of happiness, and is free to develop itself without interference or control from other states, provided that in so doing it does not interfere with or violate the rights of other states.

"III. Every nation is in law and before law the equal of every other nation belonging to the society of nations, and all nations have the right to claim and, according to the Declaration of Independence of the United States, 'to assume, among the powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them.'

"IV. Every nation has the right to territory within defined boundaries and to exercise exclusive jurisdiction over its territory, and all persons, whether native or foreign, found therein.

"V. Every nation entitled to a right by the law of nations is entitled to have that right respected and protected by all other nations, for right and duty are correlative, and the right of one is the duty of all to observe.

"VI. International law is at one and the same time both national and international: national in the sense that it is the law of the land and applicable as such to the decision of all questions involving its principles; international in the sense that it is the law of the society of nations and applicable as such to all questions between and among the members of the society of nations involving its principles."

*This preamble may be found on the first page of this issue, under the title, "A Governed World."—THE EDITORS.

Now, the word of comment for which I must ask your indulgence is that, if the first five of these articles are an analysis and summary, as I believe they are, of the principles of justice obtaining in every civilized country, and are the result of centuries of development, it is possible to reverse the process and, from these five principles of justice, to frame the rules of conduct based upon them and necessary to give them effect. It may be easier to analyze than to synthesize, but the latter can be done, and with the guidance of the rules of law existing in the different countries to give effect to these principles of justice universally recognized, and which, therefore, we can consider fundamental, we can derive from them the rules of law. They differ, perhaps, in form, perhaps in content, perhaps in sanction—because we are dealing in one case with natural persons and in the other case with artificial persons which we call states, and as conditions differ so will we expect the rules of law concerning them to differ—but we must build in accordance with a definite plan and on firm foundations if we expect our structure to stand and to prove itself adequate to the needs of nations.

A rule of law must be observed, whether it be customary or conventional—that is to say, whether it be usage hardened into custom and evidenced by the practice of nations, or whether it be in the form of treaty or convention negotiated by nations and by ratification given the form of statute. We know in our daily life that it is useless to make contracts unless they are to be kept and unless they are kept. If we believed that they would not be observed we would not have made them, and we would hesitate to make contracts at all or to make contracts with those who did not observe them. The world of affairs needs contracts; the world of affairs insists that they be kept; the world of affairs has provided agencies to secure their observance.

Now, it is equally necessary that contracts be made by nations—and treaties are contracts—that they should be kept, and that there should be agencies to secure their observance. Otherwise, it is foolish to make them; indeed, it is worse than foolish, because each contract broken discredits the system and renders international law a source of merriment to the unbelieving.

We do not need authority for the statement that contracts between natural persons be kept, and we do not need authority for the contention—I use the word advisedly—that contracts between artificial (I had almost said unnatural) persons be kept. Every system of jurisprudence of every civilized country accepts the axiom of the Roman law that *pacta servanda sunt*, which may be freely translated that agreements are to be observed. And without arguing or elaborating the point, I content myself with this brief quotation.

By the Treaty of Paris of 1856, putting an end to the Crimean War, Russia was forbidden to keep vessels of war in the Black Sea. Taking advantage of the Franco-Prussian War of 1870, and of circumstances which need not be related here, Russia, by its own action, declared this provision of the treaty to which it was a party to be abrogated. It was, in one sense, a small matter, and it was no doubt as unwise in the powers as it was humiliating to Russia to have inserted such a provision in the treaty; but, whether wise or foolish, or humiliating, the clause in question formed an integral part of the treaty, and the claim of Russia to abrogate it was a claim to

modify or vary a solemn treaty at its whim or pleasure; nay, more, it was a claim which, if allowed, would permit, if not actually authorize, any, and therefore every, nation to modify or vary a treaty to which it was a party, without the consent of the signatories, whenever in its opinion a clause agreed to and accepted had become burdensome and contrary to what it professed to be its best interests.

This was the attitude of the powers at that time, and in considering “the question in whose hand lay the power of releasing one or more of the parties to the treaty from all or any of its stipulations,” Lord Granville, then Her Majesty’s principal Secretary of State for Great Britain, said:

It has always been held that the right belongs only to the governments who have been parties to the original instrument. The despatches of the Russian Government appear to assume that any one of the powers who have signed the engagement may allege that occurrences have taken place which in its opinion are at variance with the provisions of the treaty, and though their view is not shared nor admitted by the co-signatory powers, may found upon that allegation, not a request to those governments for a consideration of the case, but an announcement to them that it has emancipated itself, or holds itself emancipated, from any stipulations of the treaty which it thinks fit to disapprove. Yet it is quite evident that the effect of such doctrine and of any proceeding which, with or without avowal, is founded upon it, is to bring the entire authority and efficacy of treaties under the discretionary control of each of the powers who may have signed them; the result of which would be the entire destruction of treaties in their essence.

The signatories of the Treaty of Paris therefore met in conference to consider the matter, and they adopted a declaration on January 17, 1871, to which France adhered on March 13, 1871, which, with the signatures appended, reads as follows:

The plenipotentiaries of the North-German Confederation, Austria-Hungary, Great Britain, Italy, Russia, and Turkey, assembled today in conference, recognize that it is an essential principle of the law of nations that no power can liberate itself from the engagements of a treaty, nor modify the stipulations thereof, except as the result of the consent of the contracting parties, by means of an amicable understanding.

In faith of which the said plenipotentiaries have signed the present protocol.

Done at London, this 17th day of January, 1871.

BERNSTORFF.
APPONYI.
GRANVILLE.
CADORNA.
BRUNNOW.
MUSURUS.
BROGLIE.

13th March, 1871.

There is no virtue in keeping an agreement when it is to our advantage to do so. The virtue, if virtue there be, only appears when it hurts. Experience shows that treaties which are advantageous are kept, as are treaties which do not lay too great a burden or involve too great a sacrifice, and it may be said in this connection that the less the sacrifice the greater the observance of the treaty. Therefore, the part of wisdom appears to be not to ask too much of the nations at any one time, but that, instead of taking a leap, which may be a leap in the dark, we should take an infinite series of little steps, each in advance of the other, each springing naturally out of its predecessor, and each confirmed by experience before the next step is taken. This is indeed *festina lente*, but it

is progress, although slow; it is sure, for what is gained in this way is liable to be observed, and not lost in times of storm and stress. The fable of the Tortoise and the Hare is not wholly confined to individuals; it applies as well to nations. The incident of the dog grasping for its shadow and losing the bone, applies as well to nations. Let me recount them to you, for I fear that in these latter days we lose sight of the general principles in our eagerness for the details; that, as our German friends put it, we cannot see the forest for the trees. Let me preface the fables with a proverb from Solomon: "Wisdom is the principal thing; therefore get wisdom; and with all thy getting, get understanding."

Although Aesop has not hitherto been quoted as an authority on international law and on international relations, I nevertheless venture to vouch him as the safe and sure model to follow. "A Hare," he tells us, "was one day making fun of a Tortoise for being so slow upon his feet. 'Wait a bit,' said the Tortoise; 'I'll run a race with you, and I'll wager that I win.' 'Oh, well,' replied the Hare, who was much amused at the idea, 'let's try and see'; and it was soon agreed that the fox should set a course for them, and be the judge. When the time came both started off together, but the Hare was soon so far ahead that he thought he might as well have a rest; so down he lay and fell fast asleep. Meanwhile the Tortoise kept plodding on, and in time reached the goal. At last the Hare woke up with a start, and dashed on at his fastest, but only to find that the Tortoise had already won the race." From these facts Aesop draws the conclusion, which I would apply to nations, "Slow and steady wins the race."

Again to quote Aesop: "A dog," he informs us, "was crossing a plank bridge over a stream with a piece of meat in his mouth, when he happened to see his own reflection in the water. He thought it was another dog with a piece of meat twice as big, so he let go his own, and flew at the other dog to get the larger piece. But, of course, all that happened was that he got neither; for one was only a shadow, and the other was carried away by the current." Aesop does not draw the moral from this little tale, because, perhaps, it was obvious, in his opinion; and, indeed, obvious it has been from his day to this. Haste, the English proverb says, "makes waste"—a fact which advocates of peaceable settlement may one day learn.

THE WAY OUT

By C. H. BARKER

THE times are portentous, but full of promise. Great events are occurring hourly whose influence and trend are full of hope. The future promises more of encouragement along all lines, religious, industrial, and social. We are undergoing a period of transition, not only as individuals, but as a world people, and this change is most manifested in the sweep of the thought of today. The world is expectant and will not be disappointed. The supreme law is one which requires the ultimate good to prevail, even though the clouds lower and the storms threaten.

The writer is in full accord with the spirit of the editorial which appeared in the issue of this journal of May, 1917, under the caption "A Governed World." The course of the events which are making our daily

record is much to be regretted, but, since we are in the conflict, it but remains, as a logical conclusion, to work our way out of it with the most dispatch and the best possible grace. The world is governed; but by what? There are many who will say that it is governed, apparently, by hate, by greed, by selfishness, but the name matters little—the fact much. The world is governed today, as it always has been and as it always will be, by one supreme thought, which we will designate, for want of a better metaphysical term, Love, which, in fact, is the best term, and probably will convey the idea best of all. This word of four letters is, to many minds, descriptive of and synonymous with the word God.

The situation is indeed far from hopeless. Just as the individual must purge himself of what we know as sin, so must the world purge itself of that which is, in fact, sin, but which we can best characterize as a cataclysm of horror—the present world war. The master German mind is quoted as putting his trust in God, and should we do less than he? In fact, must we not do more than he is doing, and put more trust, and more real trust, in the Father of all? Of course, as a matter of reason. The Kaiser-idea of trust and guidance and the Allied-idea are inconsistent; yet need we concern ourselves with this? Rather should we not seek the more earnestly to understand just what trusting God really means? For it is a patent fact, from every viewpoint angle, that if we do not trust implicitly the Leader the cause is lost. Let us remember the immortal words of Garfield, "God reigns;" here is the governing thought, and if He reigns, does He not also rule? Therefore the situation is one of hope, for God reigns with an eye, so to speak, single only for the accomplishment of good to all (note the word) of mankind, and not of one individual or one group of individuals.

In 1858, at Springfield, Abraham Lincoln delivered a speech which he himself regarded as his most masterful utterance. It was a speech of which some of his friends, whom he consulted before its delivery, said, "It will make you President of the United States." Others said that if he delivered it as he had prepared it, it would defeat the object of its preparation, which was Lincoln's election to the Senate of the United States. And in reply to both of these suggestions, Lincoln manfully replied in these words: "The time has come when these sentiments should be uttered, and if it is decreed that I should go down because of this speech, then let me go down linked with the truth."¹ History tells us that Lincoln was defeated for the Senate, presumably because of the position which he so boldly took in this address of June 16, and that he was elected later as President, thereby satisfying the prophecies of both groups of his friends. This speech is so significant, and bears so strongly upon our present problem—which in fact is one of slavery to an idea, as will later appear—that the speech is in part here set out:

"If we could first know where we are and whither we are tending, we could better judge what to do and how to do it. . . . In my opinion it (slavery agitation) will not cease until a crisis shall have been reached and passed. 'A house divided against itself cannot stand.' I believe this Government cannot endure half slave and half free. I do not expect the Union to be dissolved—I do not expect the house to fall—but I do expect it will cease to be divided. It will become all one thing or all the other. . . ."

¹ Great American Debates, vol. 5, p. 109.